

**Internal Revenue Service**  
**memorandum**

date: JAN 9 1991

to: Regional Technical Coordinator  
Midwest Region

from: Assistant Chief Counsel (Income Tax & Accounting) CC:IT&A  
TCR 17,865 -- TR-45-00060-91

---

subject: Technical Coordination Report 17,865  
Submitted by Mr. Brent Bergdall  
St. Louis District Office

Recommending: That section 6.03 of Rev. Proc. 89-67,  
1989-2 C.B. 795, 798, be rescinded.

Mr. Bergdall describes a situation where an employer (1) furnishes to an employee a per diem allowance for business travel while away from home that includes an amount for meals, and (2) also furnishes to the employee meals in kind in addition to the per diem allowance. The employee thus is reimbursed twice for the same meal(s) and no part of the reimbursements are included in the employee's gross income. This practice is consistent with the instruction described in section 6.03 of Rev. Proc. 89-67.

Section 6.03 of Rev. Proc. 89-67 was modified by section 6.03 of Rev. Proc. 90-38, 1990-28 I.R.B. 13, 14. Section 6.03 of Rev. Proc. 90-38 provides that a payor is not required to reduce the Federal per diem rate or the Federal M&IE rate for the locality of travel for meals provided in kind, provided the payor has a reasonable belief that meal and incidental expenses were or will be incurred by the employee. This modification to Rev. Proc. 89-67 is retroactive as though it originally appeared therein when Rev. Proc. 89-67 was published in 1989.

In addition, Rev. Proc. 90-60, 1990-52 I.R.B. 29, was recently published and supersedes Rev. Proc. 89-67 for per diem allowances paid to an employee on or after January 1, 1991, with respect to lodging, meal, and/or incidental expenses paid or incurred for travel while away from home on or after January 1, 1991. Section 6.03 of Rev. Proc. 90-60 restates the rule of section 6.03 in Rev. Proc. 89-67, as modified by Rev. Proc. 90-38, which is described above.

Mr. Bergdall also discusses the possibility that employers will convert an employee's salary payment into reimbursements for meals. Under section 3.03(2) of Rev. Proc. 90-60, which cites

008788

section 1.62-2(d)(3)(ii) of the Income Tax Regulations, an allowance does not meet the requirements of section 62 of the Code unless, as of December 12, 1989,

(a) the allowance was identified by the payor either by making a separate payment or by specifically identifying the amount of the allowance, or

(b) an allowance computed on that basis was commonly used in the industry in which the employee is employed.

We appreciate Mr. Bergdall's interest and initiative in submitting his report. Copies of this memorandum are enclosed for the District Technical Coordinator, Mr. Bergdall, and other interested persons.

Assistant Chief Counsel (Income Tax &  
Accounting)

By George Baker  
George B. Baker  
Assistant to the Chief, Branch 4

Attachments (4)

CK 1-18-91